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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/501,239	07/12/2004	Kiyoto Kawauchi	2565-0283PUS1	8255
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BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER ALMEIDA, DEVIN E	
			ART UNIT 2132	PAPER NUMBER
			NOTIFICATION DATE 09/14/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/501,239

Applicant(s)

KAWAUCHI, KIYOTO

Examiner

Devin Almeida

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :11/30/2004, 7/31/2006, 7/12/2004, 7/27/2006, 10/08/2004.

DETAILED ACTION

This action is in response to the papers filed 7/12/2004. Claims 1-9 were received for consideration. No preliminary amendments for the claims were filed. Currently claims 1-9 are under consideration.

Priority

Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been received.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 11/30/2004, 7/31/2006, 7/12/2004, 7/27/2006, 10/08/2004 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claim 1, 3, 4, and 8 are rejected under 35 U.S.C. 102(a) as being anticipated by Yunsk "Nesus Analysis Report", July 2001. Yunsk teaches everything with respect to claim 1, a security hole diagnostic system comprising: a script accumulation unit

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accumulating a plurality of scripts in a programming language describing procedures usually used by attackers for illegal access (see Chapter 3 Nessus installation i.e. *Nessus server*); an operation unit making a request for a list of the plurality of scripts upon entry from a user (see Chapter 3 Nessus installation i.e. *Nessus client*); a script control unit retrieving each script from the script accumulation unit upon the request from the operation unit, creating a list of an input/output parameter, a script execution condition and a test procedure described thereof, and presenting the list to the user, and executing a script that is selected by the user (see Chapter 3 Nessus installation Section 2) Client structure); a plugin accumulation unit accumulating plugins with logics for attacking individual security holes (see Chapter 3 Nessus installation Section 2) Client structure – Select plug-in for scanning); and a plugin control unit, which is called by an execution of the script by the script control unit, for retrieving from the plugin accumulation unit a plugin that is specified by the script to be executed and executing the plugin on a test target computer (see Chapter 3 Nessus installation Section 2) Client structure – Select plug-in for scanning).

With respect to claim 3, wherein the script is constructed to have a function to allow it to call another script (see Chapter 3 Nessus installation Section 2) Client structure – Plugin preferences. For instance, the pop2 overflow testing need a pop count, *queso* plugin setup specifies the configuration file route).

With respect to claim 4, wherein the script includes class concept, and wherein the script is constructed to have a function to allow it to call another script by specifying a class name when calling the another script (see Chapter 3 Nessus installation Section

2) Client structure – Plugin preferences. For instance, the pop2 overflow testing need a pop count, *queso* plugin setup specifies the configuration file route).

With respect to claim 8, wherein the plugin is described in an interpreter language (see Chapter 3 Nessus installation).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yunsk "Nessus Analysis Report", July 2001 in view of Kim "about Firewall & Network Security chap 10" translated to English. Yunsk teaches everything with respect to claim 1 above but with respect to claim 2 does not teach, comprising: a springboard simulation program including a packet transmission/reception function, a process start/end function, a function to input/output data to/from a process, and a file transfer function (See section 4 Customization); and a springboard simulation program control unit executing the plugin on the test target computer via the springboard simulation program upon instruction from the plugin. Kim teaches comprising: a springboard simulation program including a packet transmission/reception function, a process start/end function, a function to input/output data to/from a process, and a file transfer

function (See section 4 Customization); and a springboard simulation program control unit executing the plugin on the test target computer via the springboard simulation program upon instruction from the plugin (See section 4 Customization).

The present invention and the Nessus systems described in the cited inventions are both systems to give a diagnosis of a security hole (a vulnerable point) either locally or remotely. Their objectives and effects have similarities in that the performance is made in a plug-in selection form, which does not require a user to have the knowledge of input/output parameters.

According to the present invention, however, plugins corresponding to a plurality of scenarios are called out from the script accumulation unit. According to the Nessus systems of the cited documents, on the other hand, plugins can be called out in a variety of script forms created in response to a user setup, which is different from the present invention.

All the scripts provided by the present application are included in the Nessus systems of the cited documents 1 and 2. The Nessus systems can also execute all the plugins provided by the present invention. Therefore, the present invention includes the inventions of the cited documents.

Therefore, a person with ordinary skill in the art can configure the present invention easily based on the cited documents. The effects of the present invention can also be anticipated based on the cited documents. For the reasons discussed above, a patent cannot be granted under Article

With respect to claim 5, comprising: a knowledge sharing unit verifying whether the script execution condition is met, wherein the knowledge sharing unit includes, a deduction unit deriving new knowledge from information collected in an execution process of the script based on a deduction rule (See section 1 Nessus Structure and section 4 Customization).

With respect to claim 6, wherein the knowledge sharing unit is constructed to have a function to execute a script for acquiring knowledge based on the deduction rule when shared knowledge is insufficient (See section 1 Nessus Structure and section 4 Customization).

With respect to claim 7, wherein the script control unit, the plugin accumulation unit, the plugin control unit, the script accumulation unit, and the springboard simulation program control unit form a test execution unit, and the test execution unit and the operation unit are disposed separately on a network (See section 1 Nessus Structure).

Claim 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yunsk "Nessus Analysis Report", July 2001 in view of Kim "about Firewall & Network Security chap 10" translated to English in further view of Uchiyama (U.S. 2002/0024686). Yunsk and Kim teach everything with respect to claim 2 above but with respect to claim 9 they do not teach wherein the springboard simulation program control unit is constructed by using a protocol designed to pass firewalls. Uchiyama teaches wherein the springboard simulation program control unit is constructed by using a protocol designed to pass firewalls (See Uchiyama paragraph 0088). It would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains to have used a protocol that can pass firewalls to allow messages to be passed between the server the client. Therefore one would have been motivated to have used a protocol that can pass firewalls (See Uchiyama paragraph 0088).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Almeida whose telephone number is 571-270-1018. The examiner can normally be reached on Monday-Thursday from 7:30 A.M. to 5:00 P.M. The examiner can also be reached on alternate Fridays from 7:30 A.M. to 4:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron, can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DA

Devin Almeida

Patent Examiner

9/7/2007


Benjamin E. Lander
Examiner DU 2132